IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.11407 of 2004

Dated: 06-10-2007

Between:

Polanki Bhanu Kiran, s/o P. Malleshwara Prasad.

... Petitioner

and

1. The District Registrar,
   District Registrar Office,
   Narasaraopet,
   Guntur District and another.

... Respondents

ORDER:

According to the petitioner he purchased an extent of Acs.3-45 ½ cents in S.No.38/1 in Sattenapalli village from one Ravi Sambashiva Rao for a valid consideration of Rs.55,000/- per acre on 25-04-2002. Thereafter, he submitted the sale deed before the second respondent – Sub Registrar, by paying the requisite stamp duty, for registration, but, however, the same was referred by the second respondent to the first respondent – District Collector, as provided for under Section 47-A of the Indian Stamp Act, 1899 (for short, 'the Act'). The first respondent determined the market value at

Rs.5,00,000/- per acre and thus directed him to pay the deficit stamp duty as well as the registration fee. At that juncture, the petitioner approached this Court and filed the present writ petition. Thereafter, as the first respondent passed final order in proceedings No.857/47-A/2004, dated 27-08-2004 stating that the market value of the land in question is Rs.5,00,000/- per acre and further directed the petitioner to pay the deficit stamp duty and registration fee, he filed W.P.M.P.No.4184 of 2005 seeking to permit him to amend the prayer in the writ petition to the extent of questioning the said order dated 27-08-2004.

2. Despite the fact that the respondents are served with the notices they have not chosen to file any counter affidavit.

3. From the facts it is clear that the Sub Registrar entertained a doubt about the value of the land for which the document is sought to be registered and thus referred the matter to the Collector as provided for under Section 47-A of the Act and at that juncture, as already stated, the petitioner approached this Court and filed the present writ petition. This Court issued *Rule nisi* on 07-07-2004. It is also clear that a notice in Form No.II was served to the petitioner on 07-08-2004, for which the petitioner submitted his explanation on 16-08-2004. Of course this is in the form of an advocate's notice and the Collector without considering the said notice or representation passed the order dated 27-08-2004 determining the market value of the property in question is Rs.5,00,000/- and thus determined the total value of the property is Rs.20,06,700/-**.** However, as the petitioner had already paid an amount of Rs.55,000/- per acre at the time the reference was made by the Sub Registrar to the Collector, the Collector directed the petitioner to deposit the deficit stamp duty of Rs.2,05,505/- as well as the deficit registration fee of Rs.9,340/-.

4. In fact, sub-section (2) of Section 47-A of the Act clearly mandates that on receipt of a reference under sub-section (1), the Collector shall after giving the parties an opportunity of making

representation and after holding an enquiry in such a manner as may be prescribed by Rules made under the Act determine the market value of the property, which is the subject matter of such instrument and the duty as aforesaid. From the said provision of law, it is clear that though the Collector issued notice on 07-08-2004 and an explanation was offered by the petitioner on
16-08-2004, the Collector had not afforded sufficient opportunity to the petitioner nor did he consider the said representation dated 16-08-2004. This fact is very clear from the impugned order dated 27-08-2004, wherein it is stated that the notice was issued to the party in the reference second cited under sub-section (2) of Section 47-A of the Act and Rule 4 of the Rules made thereunder, but the claimants have not responded and have not produced any evidence in spite of their claim about the value of the property. Even in the reference to the said order in Item No.7 it is mentioned party representation Nil.

5. From the above it is clear that the said representation/advocate's notice dated 16-08-2004 is not considered by the Collector. Of course it is the contention of the learned counsel for the petitioner that for the very same lands, the Sub Registrar collected only Rs.40,000/- towards registration charges, but however, insofar as the petitioner is concerned, he referred the matter to the Collector and the Collector directed the petitioner to pay the deficit stamp duty of Rs.2,05,505/-. Of course, this aspect has to be gone into by the Collector before determining the market value. Having regard to the fact that the Collector has not taken the representation into consideration nor did he hold any enquiry into the matter, this Court is of the view that the said order dated 27-08-2004 impugned in this writ petition is liable to be set aside.

6. Accordingly, the writ petition is allowed and the proceedings bearing No.859/47-A/2004, dated 27-08-2004 is set aside and the matter is remanded to the District Registrar and Collector under Section 47-A of the Act. The first respondent – Collector is directed to follow the procedure provided for under Section 47-A of the Act, taking into consideration the representation/advocate's notice given by the

petitioner on 16-08-2004.

JUSTICE GOPALAKRISHNA TAMADA

Dt.06-10-2007
Note: Issue C.C. in two weeks.
B/o
GLV